

GN



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,113	01/07/2002	Ulrich Braun	VOSS1170	5907

7590 10/25/2002

Lisa A Haile
Gray Cary Ware & Freidenrich
Suite 1600
4365 Executive Drive
San Diego, CA 92121

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 10/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,113

Applicant(s)

BRAUN, ULRICH

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

1. The drawings are objected to because cross-hatching is apparently missing from Figs. 1 and 2. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office action. Any proposal by applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the draftsman in accordance with MPEP 608.02(r); and

b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office action, and may not be deferred.

2. The disclosure is objected to because of the following informalities: page 7, line 4, "11" apparently should be --18--, and line 13, "16" apparently should be --13--.

Appropriate correction is required.

3. Claims 3-8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer to other claims in the alternative only (claim 3), and must not depend from any other multiple dependent claim (claims 4-8).

Art Unit: 3751

See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "device" set forth in claim 1 (lns. 2 and 4), "feature" set forth in claim 2, and the "method" set forth in claims 9 and 10, could not be found in the specification.

5. Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The invention referred to in the claims is insufficiently disclosed to enable one skilled in the art to understand the structure of, and cooperation between, the elements which comprise same. For example, how cover C functions to control a urine outlet is neither disclosed nor evident to the examiner. The cover appears to seal blocking hole 12 in both positions thereof via seal B and plug 11. ^{pg. 10} Moreover, what is meant by plugs 11 and 18 "snapping" is not evident to the examiner.

Art Unit: 3751

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 9 and 10, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell.

The Campbell reference discloses a device comprising: a device for opening a urine outlet 7; a device for closing a urine outlet 7; and a feature 20, as claimed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Kirby, Jr. and Strachan, Jr. references disclose various devices having features in common with the instant invention.

9. Applicant is referred to MPEP 714.02 in responding to this Office action.

10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Tuesday through Thursday.

Application/Control Number: 09/890,113

Page 5

Art Unit: 3751

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga". The signature is fluid and cursive, with the first name "Robert" being more prominent.

Robert M. Fetsuga
Primary Examiner
Art Unit 3751